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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
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9 **ELECTRONIC FRONTIER FOUNDATION,**

10 Plaintiff,

11 vs.

12 **DEPARTMENT OF JUSTICE,**

13 Defendant.
14

Case No.: 4:11-cv-05221-YGR

**ORDER DENYING WITHOUT PREJUDICE
PENDING CROSS-MOTIONS FOR SUMMARY
JUDGMENT AND DIRECTING PARTIES TO
SUBMIT FURTHER STATUS REPORT**

15 On June 11, 2013, the Court issued an order, pursuant to the stipulation of the parties, holding
16 its decision on the parties' pending cross-motions for summary judgment in abeyance. (Dkt. No.
17 60.) The Court granted the stipulation in light of recent developments concerning release of
18 previously classified information by the Director of National Intelligence ("DNI") related to Section
19 215 of the USA PATRIOT Act of 2001, 50 U.S.C. § 1861 ("Section 215"). (See June 6, 2013 "DNI
20 Statement On Recent Unauthorized Disclosures of Classified Information," at
21 [http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-](http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-statement-on-recent-unauthorized-disclosures-of-classified-information)
22 [statement-on-recent-unauthorized-disclosures-of-classified-information](http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-statement-on-recent-unauthorized-disclosures-of-classified-information).) The parties submitted a
23 Joint Status Report on July 12, 2013 (Dkt. No. 61), setting forth their respective positions regarding
24 the timing of Defendant's declassification review of responsive documents and release of any re-
25 classified, non-exempt documents previously withheld.

26 On July 19, 2013, the Court ordered that Defendant submit finalized classification
27 determinations and the dates by which it would release said documents to Plaintiff, as well as a
28 schedule for declassification of the remainder of the documents and a proposed schedule for further

1 briefing on the pending cross-motions for summary judgment in light of the above, reached after
2 meeting and conferring with Plaintiff.

3 Defendants have submitted a Status Report (Dkt. No. 63) addressing these points and
4 indicating that Plaintiff does not object to review and release of the documents on the schedule set
5 forth therein. Moreover, the parties agree that, following the declassification review and production
6 of documents previously withheld, "the remaining areas of dispute in this litigation will be
7 substantially narrowed if not eliminated." (*Id.* at 3:22-24.)

8 Having considered the Status Report and the significant change in the posture of the case in
9 light of the developments detailed above, and good cause appearing, the Court **ORDERS** as follows:

10 (1) the pending Cross-Motions for Summary Judgment are **DENIED WITHOUT PREJUDICE** to
11 re-filing/re-noticing, if necessary, after Defendant's release of documents;

12 (2) Defendant shall prepare for release to Plaintiff on or before **September 10, 2013**, non-
13 exempt records responsive to Plaintiff's request for: (a) significant opinions or orders of the FISC,
14 and (b) any significant documents, procedures, or legal analyses incorporated into FISC opinions or
15 orders and treated as binding by the Department of Justice or the National Security Agency;

16 (3) as set forth in the Status Report, Defendant shall complete further re-review of "a subset
17 of the remaining responsive records" and release of non-exempt records on or before **October 10,**
18 **2013**; and shall complete re-review of all remaining responsive records and release of non-exempt
19 records on or before **October 31, 2013**;

20 The parties shall file a Joint Status Statement no later than **December 6, 2013**, advising the
21 Court of the parties' discussions and proposing a schedule for further proceedings including, without
22 limitation, summary judgment motions.

23 This Order terminates Docket Nos. 40 and 41.

24 **IT IS SO ORDERED.**

25 Date: September 6, 2013

26 

YVONNE GONZALEZ ROGERS

UNITED STATES DISTRICT COURT JUDGE